

TFW 3624

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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| TRANSMITTAL FORM (to be used for all correspondence after initial filing) | Application Number | 09/349,517 | |
| | Filing Date | Jul 8, 1999 | |
| | First Named Inventor | McDonald, Russell W. Et al. | |
| | Art Unit | 3624 | |
| | Examiner Name | Ella Colbert | |
| Total Number of Pages in This Submission | 8 | Attorney Docket Number | R250-001 |

| ENCLOSURES (Check all that apply) | | |
|---|--|--|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance communication to (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - Copy of Office Action dated 1/9/2006 - Prepaid Return Postcard |
| Remarks | | |

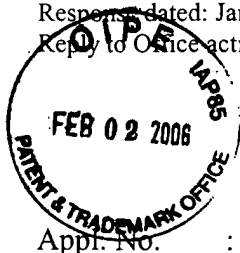
| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | | | |
|--|---------------------|----------|-------|
| Firm Name | GSS LAW GROUP | | |
| Signature | | | |
| Printed name | GREGORY SCOTT SMITH | | |
| Date | January 30, 2006 | Reg. No. | 38309 |

| CERTIFICATE OF TRANSMISSION/MAILING | | | |
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| Signature | | | |
| Typed or printed name | EVANJELIN M. DASALLA | Date | January 30, 2006 |

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Appl. No.: 09/349,517
Response dated: January 27, 2006
Reply to Office action of January 9, 2006



IN THE U.S. PATENT AND TRADEMARK OFFICE

Appl. No. : 09/349,517 Confirmation No: 6725
Applicant : McDonald, Russell W. et al
Filed : July 8, 1999
T.C./A.U. : 3624
Examiner : Ella Colbert
Docket No. : R250-001

Commissioner for Patents
P.O.Box 1450
Alexandria, VA 22313-1450

**Response to
Office Action dated January 9, 2006**

Dear Sir:

This document is filed in response to the Office Action dated January 9, 2006, which included the following documents:

- (a) a Notice of Improper Request for Continued Examination, and
- (b) a Notice Requiring Extension of Time Fees.

A copy of Office Action dated January 9, 2006 is attached hereto as Exhibit A.

The Applicant asserts that the Notice of Improper Request for Continued Examination and the Notice Requiring Extension of Time Fee are both improper. The facts are as follows.

A non-final Office Action dated September 26, 2005 (hereafter "the September Office Action") was received by Applicant's Representative in the matter of the above-identified patent application. A Response to the September Office Action was filed (with a signed certificate of mailing) on December 23, 2005 prior to the end of the three-month filing deadline.

A follow-up Office communication was issued by the Patent Office and mailed to Applicant's Representative on January 9, 2006 including the Notice of Improper Request for Continued Examination and the Notice Requiring Extension of Time Fees referenced above.

The Applicant points out that the Response to the September Office Action was filed prior to the end of the three-month filing deadline. Therefore, no extension fees were required. Furthermore, the September Office Action was non-final, therefore, filing a Request for Continued Examination would not have been appropriate, and consequently, no Request for Continued Examination was filed.

Additional claims were added in the December 23, 2005 amendment, and a credit card form for payment of the additional claims fees in the amount of \$875 was included.

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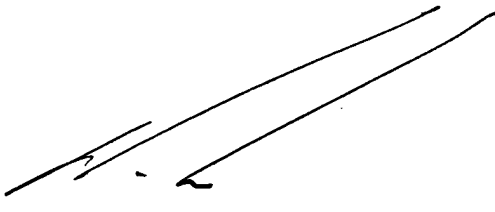
The Applicant respectfully requests that the Patent Office take the following actions:

- (1) withdraw the Notice of Improper Request for Continued Examination,
- (2) withdraw the Notice Requiring Extension of Time Fees,
- (3) apply the \$875 payment made by the Applicant to pay for the additional claims submitted in the Amendment filed December 23, 2005,
- (4) in the event any fee shortage is discovered, please use Deposit Account number 502276 which is maintained at the Patent Office for that purpose, and
- (5) enter the Amendment filed December 23, 2005.

Conclusion

As discussed above, the Response filed to the September Office Action was timely filed prior to the expiration of the three month response deadline, and no Request for Continued Examination was needed or filed. Therefore, the Applicant asserts that the Response filed to the September Office Action was complete as filed, and that it included the appropriate government fees for the additional claims. Accordingly, the Applicant requests that the objections raised in the Office Action dated January 9, 2006 be withdrawn, and that the amendment be entered and forwarded to the Examiner assigned to this case.

If we may be of any assistance in this case or if any additional information is required, please feel free to contact Earle Jennings or Gregory Smith at (510) 742-7417.

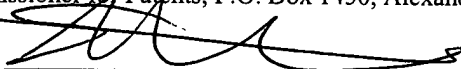


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Signature


Evanjin M. Dasalla

Date: January 30, 2006